QUESTION FOR ANSWER ON THE DAY

(but not taken up)

L. F. Dispensary for Pattanayakana halli of Gowdagere Hobli, Sira Taluk.

Q.—719. **Sri B. N. RAME GOWDA** (Sira).—

Will the Government be pleased to state :—

(*a*) whether there are any representations from the people of Pattanayakanahalli of Gowdagere Hobli in Sira Taluk to start L. F. Dispensary in that village ;

(*b*) the stage at which the question stands at present ?

A.—**Sri T. CHANNIAH** (Minister for Public Health and Local Self-Government).—

(*a*) Yes.

(*b*) The question is pending for availability of suitable buildings for the dispensary and quarters to the staff, and the consent of the District Board to bear the proportionate expenditure.

ADJOURNMENT MOTION.

Regarding adverse effects of incidence of Sales-tax on Agricultural Produce.

Mr. SPEAKER.—Sri Mulka Govinda Reddy has tabled an adjournment motion. The motion reads like this :

> " This House do now stand adjourned to discuss a definite matter of urgent public importance and of recent occurrence to wit : the situation arising out of the non-disposal of agricultural produce especially groundnuts by the growers, after the introduction of the new system of sales-tax from first April, whereby the agriculturist is made to pay sales-tax on his own produce which has resulted in accumulation of huge stock in the Davanagere, Tumkur and Mysore Regulated Markets and thus causing hardship to the raiyats and bringing down normal trade. '

Sri Mulka GOVINDA REDDY (Chitaldrug).—Sir, after the introduction of the new system of Sales-tax in Mysore State from 1st April 1955, Government under the rule-making power have included a clause whereby the producer when he brings his produce, especially groundnuts to the market, he has been made to pay sales-tax.

An Hon'ble MEMBER.—Have you allowed the adjournment motion, Sir?

Mr. SPEAKER.—No, No. I have not given my ruling. He is entitled to explain the motion.

Sri A. BHEEMAPPA NAIK (Molakalmuru).—I have brought this to the notice of the Revenue Minister and he has assured me that proper instructions would be given and the rule would be changed.

Mr. SPEAKER.—The Hon'ble Minister will reply later. I request the Hon'ble Member to wait for some time and then he can also throw in some weight.

***Sri Mulka GOVINDA REDDY.**—Sir, the agriculturist has been made to pay tax on his produce. According to the Act, it is the first purchaser that has to pay sales-tax. So, this rule is repugnant to the Act and this concerns the growers of groundnut in large quantities in Chitaldrug District, in Mysore District, in Tumkur District and other places. Hence this is a definite matter of urgent public importance. The Government under the rule-making power has made the agriculturists to pay the tax and according to the Act the purchaser and the mill-owner should have been made to pay this sales-tax to the Government. This is of recent occurrence because since the introduction of this new tax system from 1st April 1955, the stocks have been accumulated in the market yards at Davangere, Tumkur and Mysore.

Mr. SPEAKER.—That has been stated in your adjournment motion. If there are any additional arguments, you can advance them.

Sri Mulka GOVINDA REDDY.—For the last 11 days the stocks have not been disposed of and hence it is of urgent public importance and of recent occurrence. I, therefore, plead that it is admissible.

***Sri A. BHEEMAPPA NAIK.**—I want to say this much, Sir. This Act was passed very recently in order to see that

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agriculturist is not made to pay any tax. It was called a purchase tax which meant only for the purchaser to pay. Now what has happened is : under the rule-making power the purchaser will pay it by recovering it from the agriculturist. That is the rule that has been passed. When I brought it to the notice of the Hon'ble Minister he said that he would immediately call for the connected records and instruct the departmental people to do the needful. It may be the entire market is closed for this commodity at Tumkur and Mysore. Now here in India the agricultural commodities are subject to sales-tax especially when the producer himself brings it. Here, under the rule-making power, contrary to the intention of the Legislature, the rule has been passed. Therefore this adjournment motion is of public importance and it must be decided immediately. If the Minister assures that necessary action would be taken, then this need not be admitted.

*Sri J. MOHAMED IMAM (Jagalur).- Sir, I am returning from that area and this deadlock has been causing intense suffering to the raiyats. It so happens that raiyats who go to Davangere for selling their produce, have to go and wait there indefinitely. Their produce will be lying somewhere and they will be somewhere. I am told this has caused untold hardship to the raiyats. The matter has become very grave and serious and it has to be solved immediately.

Last time alone when the consideration of the Sales-Tax Bill was taken up, I objected to the levy of tax on groundnut on the ground that it was repugnant to the Constitution of India, because the Constitution of India exempts edible oils and edible oil-seeds.

Mr. SPEAKER.—Now the only point is which is the rule that is drafted by the Government which is supposed to be repugnant to the Act? That is the point. You may point out the particular provision of the Act. The Act has been passed and we cannot go back upon it.

Sri J. MOHAMED IMAM.—That is what I am saying Sir. Secondly, the Government cannot levy sales-tax on agricultural produce when it is sold by the producer himself. At that time, the Government said it was purchase tax. But it has so happened in Davangere, the producer says, I am not going to pay the tax, it is the liability of the seller. The seller or the agent who sells, says this is an agricultural commodity and is exempt from the sales-tax. It has, therefore, created a deadlock and all the merchants have combined together and they have refused to purchase the stock from the producers who say, 'we cannot establish a precedent by giving this sales-tax'. That is the problem which has to be resolved. All this is due to the short-sightedness of the Government at that time in not realising the implication of levying tax on this commodity which is exempt from taxation under the Constitution.

Sri Kadidal MANJAPPA (Minister for Revenue and Public Works).— Sir, the Hon'ble House is aware that the business community of the State were urging all along for the levy of tax at a single point instead of multi-point taxation. To meet the wishes of the merchant Community, a Committee was constituted to go into this question as well as other allied questions. The Committee recommended that about 35 articles including groundnut could be brought under single-point levy. I would like to read a sentence from the Report of the Committee:

> "The committee accepts the suggestion and accordingly recommends that the purchase tax at three pies per rupee may be levied on groundnut at a single-point from the first purchaser irrespective of the fact whether the seller is grower or not."

This is the recommendation of the Committee. In accordance with the report of the Committee, a Bill was placed before this august House. The Bill had been referred to Select Committee and after a good deal of discussion, the Bill was passed into law

now. I would like to read the relevant sections in the amended Act. Schedule I contains a list of articles which are subject to levy of tax at a single-point. Groundnut is one of the commodities included in this list. Item 31 in this list deals with the question of levy of tax on groundnut.

"Groundnut shelled or unshelled ... 3 pies".

"First purchase in the State of Mysore by the first or the earliest of the successive purchasers having place of business in the State of Mysore to whom the provisions of sub-section (3) of section 3 do not apply, irrespective of the fact whether the seller is grower or not."

There is another relevant section—section 11. This section as amended reads like this, Sir:

"No person other than a registered dealer liable to payment of tax under sub-section (2) of section 3 shall collect any amount by way of tax under this Act, nor shall such registered dealer make any such collection except in respect of a sale or purchase of goods specified in Schedule I except in accordance with such conditions and restrictions, if any, as may be prescribed."

Under this section, you have given the dealer the right to collect sales-tax only in respect of articles which are mentioned in the Schedule. So, the groundnut dealer has got a right to collect the tax.

Sri J. MOHAMED IMAM.—From whom is the question?

Sri Kadidal MANJAPPA.—From whom is the question. If you ask him to collect the tax from the person to whom he sells the goods, it would not be a purchase-tax, it would be a sales-tax. That is the difficulty now. No doubt it is true that according to rules framed, the agriculturist is made to pay the tax. But how to avoid is the question. There is an Act which enables the dealer to collect the tax. You cannot say that he cannot collect the tax. If you ask him to collect the tax from the person to whom he sells, it will not be a purchase tax, it will be a sales-tax. That will be against the provisions of the Act. If you ask him to pay from his pocket, it will not be in accordance with the provisions of the Act because section 11 gives him a right to collect the tax. The only alternative is to permit him to collect the tax from the agriculturist. That has been the necessary consequence of this.

Sri A. BHEEMAPPA NAIK.—In order to avoid this alone we called it a purchase tax.

Sri Kadidal MANJAPPA.—I pointed out the relevant section. Here is a section—I would read the section again for the benefit of my weighty friend.

Sri A. BHEEMAPPA NAIK.—I know that, I was a member of that Committee.

Sri Kadidal MANJAPPA.—It reads thus:

"No person other than a registered dealer liable to payment of tax under sub-section (2) of section 3 shall collect any amount by way of tax under this Act, nor shall such registered dealer make any such collection except in respect of a sale or purchase of goods specified in Schedule I except in accordance with such conditions and restrictions, if any, as may be prescribed".

He is a registered dealer liable to pay sales-tax in respect of transactions concerning groundnuts. Therefore, he has got a right to collect the tax from his customers whether it is a buyer or a purchaser. That I have made clear I suppose.

Sri A. BHEEMAPPA NAIK.—You have not made it clear. At any rate, I have not understood it.

Sri Kadidal MANJAPPA.—I will say it again. According to section 11, every dealer who deals with the commodities which are subject to levy of tax at single-point has got a right to collect sales-tax. I suppose I made it clear.

A MEMBER.—Yes.

Sri Kadidal MANJAPPA.—You cannot say that a dealer cannot collect sales-tax from his customers. You cannot compel

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him to pay tax out of his profits because it is not a multi-point tax. In the case of dealers, who are dealing with any articles subject to levy of tax at several points, you can say that he has no right to collect tax. A dealer dealing in articles subject to levy at a single-point can collect tax. You cannot say that a person who is dealing in groundnuts cannot collect tax. That is the difficulty. If you concede his right to collect tax, he must collect it either from the person from whom he purchases or from the person to whom he sells. I want the Hon'ble Member to listen.

Sri A. BHEEMAPPA NAIK.—That section applies to sales-tax not to purchase tax.

Sri K. HANUMANTHAIYA (Chief Minister).—The Hon'ble Member can say whatever he wants once for all and allow the Hon'ble Minister a chance.

Sri J. MOHAMED IMAM.—What we want is, there is an unhappy deadlock which has arisen and which must be solved. We want a ruling from the Government. I think the Hon'ble Minister has confused.

Sri Kadidal MANJAPPA.—I have never confused myself, Sri. Imam. Legally, I am on firm ground.

Sri J. MOHAMED IMAM.—The issue is simple. Groundnut is subject to certain tax—three pies per rupee. It has to be collected. It is called a purchase tax and not a sales-tax. What is the difference in the mode of collection or in the mode of levy between the sales-tax and a purchase-tax. That has to be explained. From whom should this tax be collected. Supposing the groundnut is taken to the market at Davangere where it is sold to a dealer. He sells it. Usually the sales-tax has to be collected from the agriculturist who brings it. Naturally what he does is, he collects or takes that sales-tax out of the amount payable to the agriculturist. Or if purchase-tax is to be collected, when he pays the Bill to the seller, he says; '2,000 rupees value of groundnut *plus* 2,000 three pies'. If we say purchase-tax, it is presumed it is to be collected from the purchaser. Sales-tax is presumed to be collected from the seller.

Sri Kadidal MANJAPPA.—The Hon'ble Member is confused Sir.

Sri J. MOHAMED IMAM.—Sales-tax is not to be collected from the agriculturist and no sales-tax can be levied on the agriculturist who is the seller. Otherwise, can you tell me, why is it called purchase tax? When you call it purchase-tax, the implication is, the tax is to be collected from the purchaser. Sir, in England there is what is called the purchase-tax. Sixty-two per cent is levied on watches, serges and shirtings, and the purchase-tax is collected from the purchaser. For example, if a watch is purchased, they levy 62 per cent tax. That tax is collected from the purchaser, not from the original dealer. Similarly, here the purchase tax must be collected from the person who purchases the commodity. So, the direction you have got to give is, whoever purchases the groundnut in the market is levied a purchase tax of three pies per rupee. That is the direction you have to issue and there is no need to collect it from the seller. So, the middle-man or the dealer-*dallali* has to collect not only the amount, but also the purchase tax from the purchaser. If these instructions are quite clearly issued, then there may not be any trouble. As it is now they are in a dilemma.

1-30 P.M.

The purchaser says that it must be paid by the seller and the seller says that it must be paid by the purchaser. Therefore, it is quite necessary that you clarify the point so as to give a sense of security to the agriculturist. You should very clearly indicate from whom the tax has to be collected.

Sri Mulka GOVINDA REDDY.—In the Schedule it is clearly said that this purchase tax should be collected from the first purchaser or from the earliest of the purchasers. So, it is the purchaser or the mill-owner that should pay the tax. He must pay this tax and not the agriculturist. I further understand that this clause was inserted at the influence of mill magnates in the Mysore State.

Sri A. BHEEMAPPA NAIK.—The dealer as mentioned therein is not the dealer. He is only a buyer. My friend quotes a section which refers to a dealer. Here either a mill-owner or another person is purchasing on his behalf. Therefore that section cannot apply. The other day when I mentioned it to him as incorrect, he said that he will set it right. But light has come from the other side.

(Interruption)

My friend the other day definitely admitted and agreed that it was a mistake. My friend Sri. V. M. Mascarenhas was one of the members of the Committee. It was in order to avoid agriculturists paying, and yet recover that tax. That word was for the first time coined and put in with a view to see that the buyer pays the sales-tax and not the seller. Otherwise we should have simply called it a single point tax, and what would have happened was the seller would have paid. We do not want the agriculturist to suffer. The object was that the purchaser should pay. We know that it is ultimately the person who sells that will suffer. In a competition one might feel that he would pay from his pocket. Another might feel that he would get from somebody else. Ultimately the buyer who purchases should pay and not the dealer.

*Sri H. M. CHANNABASAPPA (Periyapatna).—I rise to a point of order. The question before us is whether the adjournment motion is admissible or not. But my friends are discussing on the merits of the case.

Mr. SPEAKER.—Not on the merits of the case.

Sri H. M. CHANNABASAPPA.—I would like to submit to the Chair that it is open to any member of the House to speak on the merits of the admissibility of the motion and not on the case itself. I submit that the way in which we are going on is not relevant.

Mr. SPEAKER.—The only point here is whether the rules provide for the collection of the tax and whether it is in consonance with the Act or whether it is repugnant to the Act.

Sri H. M. CHANNABASAPPA.—But the question is, Sir, whether the adjournment motion moved is admissible or not and whether it is a matter of urgent public importance and whether it satisfied all the provisions of the rules.

*Sri A. BHEEMAPPA NAIK.—Sir, the Hon'ble Minister need not have referred to the section. He might have said that it is not of urgent public importance. Here, it is admissible because it is of urgent public importance. Because several markets are closed and agricultural commodities are not being sold, the agriculturists are suffering in the entire State. Therefore it is a matter of public importance and it is of recent occurrence because this particular rule was passed after 1st April 1955, and which is contrary to the intentions of the Legislature. Therefore, it is urgent and is of recent occurrence, and it should be taken up. After having taken up, if he wants clarification that the rule contravenes the very intentions of the Act, we will later on argue about it.

Sri V. M. MASCARENHAS (St. John's Hill).—Sir, this subject was discussed by the committee at great length. It was clearly understood that the words 'purchase tax' should mean that the grower would not pay it but only the buyer and in very many cases the buyer of the groundnut or the miller. Moreover, it was understood that the groundnut would be sold in most of the regulated markets in the State and that the collection of the tax from the miller was a matter of very great convenience and also of ease. Hence the committee thought it best to use the word 'purchase tax' instead of sales-tax. It was clearly understood that the grower would be immune from the tax and would not pay anything. In view of that I fail to understand why this confusion has arisen. Therefore, it is better for the Government to have this matter cleared.

Sri Kadidal MANJAPPA.—The definition of he word dealer has to be understood by the Hon'ble Members. A dealer means any person who carries on business of buying and selling. The person who purchases is also included in the definition of the word dealer. That is one aspect. As

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regards the question from whom the Government should collect the sales-tax, the Government is to-day collecting the sales-tax from purchaser and not the agriculturist direct. There is no rule which authorises Government to collect sales-tax from the agriculturist. We are collecting sales-tax from the purchaser directly. The next question is whether.....

Sri V. VENKATAPPA (Channapatna).—Sir, have you given the ruling on the point of order raised by Sri Channabasappa?

Mr. SPEAKER.—I am quite aware of the point raised. To give a ruling, I think I should know whether the rule in question is contrary to or in consonance with the Act. That is why I have allowed discussion.

Sri H. M. CHANNABASAPPA.—Sir, the merits of the point could be discussed later on. But the question is whether the matter before the House is a matter of urgent public importance.

Mr. SPEAKER.—Before giving my ruling I wanted to know whether legislation could be amended by bringing in an adjournment motion.

***Sri K. HANUMANTHAIYA.**—Sir, it is true that according to the convention a *prima facie* case has to be made out. To that extent elucidation of point involved is necessary. Therefore, you are perfectly right in trying to understand what the point involved is and how far it is of public importance and urgency and whether there is a *prima facie* case. To that extent the House benefits by such discussions.

Sri Kadidal MANJAPPA.—I was submitting that groundnut is one of the commodities subject to the levy of tax at a single-point. The tax in this case is the purchase-tax. According to the provisions of the Act, Government has got a right to collect purchase tax from the first purchaser. So, it is not as though we are trying to collect from the agriculturist. The next question for consideration is whether the dealer who is also a purchaser should be permitted to collect sales-tax in return. In the case of sales-tax, the dealer collects the sales-tax from the person to whom he sells the goods. In the case of purchase tax, it is collected from the person who purchases the goods. He is the person liable to pay the tax to the Government. In the case of sales-tax the first person who sells is liable to pay the sales-tax to the Government. In the case of sales-tax, the person who sells the goods has got a right to collect the tax from the person to whom he sells the goods, *i.e.*, the purchaser. In the case of the purchaser a similar right has been conceded under section 11 of the Act. When you concede the right to collect tax which he pays to Government it must be either from the person from whom he purchases the goods or from the persons to whom he sells the goods.

For example, Sri Imam is the dealer. If he sells the goods, then he has got the right of collecting the tax from the person to whom he sells. If he is levied the purchase-tax, he has got the right of collecting the tax from somebody. If his right to collect the sales-tax is conceded by this Act, he must be authorised to collect the tax either from the person to whom he sells the goods or from the persons from whom he purchases the goods. Unfortunately in this Act, his right to collect is conceded. The only remedy for this problem is to amend the Act itself and to bring groundnut under the multi-point levy. If you do it, you can ask the purchaser to pay tax out of the profits. I am all in sympathy with the ryots. But intentionally or unintentionally, whatever it may be, there is the Act passed by this House. We are bound by the Act. The rules are framed in accordance with the provisions of section 11. If you say that the purchaser should be asked to pay tax out of his profits, that will be inconsistent with the provisions contained here. If you ask him to collect tax from the person from whom he sells in return, there will be also inconsistency between the provisions of the Act and the rules framed. Therefore, the only solution is to have the Act amended. That is the difficulty. When Sri Bheemappa Naik pointed out to me the difficulties felt by the agriculturists I assured him that my sympathies are with the agriculturists

and that I am going to act in their favour. When I said that, I thought I could change the rule. But after consulting legal opinion, I come to understand that the rule cannot be changed, and it should be done only by amending the Act itself.

Sri A. BHEEMAPPA NAIK.—The original intention of the committee was to see that the agriculturist does not pay the tax. Another point that he raised was that he must either collect from the next purchaser or from the purchaser. I see he can collect from the next purchaser.....

Mr. SPEAKER.—I wanted to know whether the rules were in consonance with the Act so as to give my decision, With regard to the merits, they can be discussed if and after I allow the motion.

Sri A. BHEEMAPPA NAIK.—Even if it is consistent with the Act, the urgency and importance of it we have shown and whether it is consistent or inconsistent, it is a matter of public importance and of urgent nature and of recent occurrence. Even then the Speaker will have to allow it. It is not a question of being consistent or inconsistent.

Mr. SPEAKER.—That I will consider.

Sri A. BHEEMAPPA NAIK.—Whether by amending the rule or the Act, there is the section of the public, that is, the agriculturists.... .

Sri K. HANUMANTHAIYA.—On a point of order. This discussion cannot go on endlessly. Members were allowed sufficient time and there is a rule that no member should speak more than twice. If members speak thrice on the same subject, we will be violating all rules. Now to be fair to the House and to the Speaker, the member was given almost two chances, and that he should go on in this fashion is not in consonance with rules or traditions, especially when the Minister has replied. It is time to take a decision. This cannot go on in this fashion. (*Interruption from Sri A. Bheemappa Naik*). I take objection to this sort of interference. I am saying that the rules and conventions ought to prevail in this House and the member cannot go on making remarks every now and then.

Sri A. BHEEMAPPA NAIK.—I appeal to the Speaker.

Sri Kadidal MANJAPPA.—One more clarification regarding the point raised just now. Sri Bheemappa Naik suggested that the purchaser can be asked to collect sales-tax from the person to whom he sells the goods in return. For that there is an objection. It is a purchase-tax. If it were a sales-tax we could have directed him to collect the tax from the person to whom he sells the goods. He cannot do it as the provision stands. Further, the rules were published in the Gazette after giving four weeks' time for preferring objections. After following the procedure prescribed, the rules have been.....

Mr. SPEAKER.—When were the rules published ?

Sri Kadidal MANJAPPA.—There may be a difficulty, but this is not a matter of recent occurrence.

Mr. SPEAKER.—When were the rules published ?

Sri Kadidal MANJAPPA.—The rules were published in the mouth of February.

Mr. SPEAKER.—I will look into it.

Sri Mulka GOVINDA REDDY.—What is the interim relief that the Government propose to solve this deadlock ?

Mr. SPEAKER.—That matter may be taken up after I give my dicision. I will give my decision to morrow.

ಶ್ರೀಮತಿ ಬಿ. ಎರ್. ನುಬ್ಬಮ್ಮ (ಚಿಕ್ಕಮಗಳೂರು).—ಸ್ವಾಮಿ, ನಮ್ಮ ಚಿಕ್ಕಮಗಳೂರು ತಾಲ್ಲೂಕು, ತಳಿಹಳ್ಳಿ ಗ್ರಾಮದಲ್ಲಿ ನಡೆದಂಥ ಒಂದು ದುರ್ಘಟನೆಯ ಬಗ್ಗೆ ಒಂದು ವಿಚಾರವನ್ನು ನಾನೀಗ ಈ ಸಭೆಯ ಗಮನಕ್ಕೆ ತರಬೇಕಾಗಿದೆ —ನಮ್ಮ ಆ ತಳಿಹಳ್ಳಿ ಗ್ರಾಮದಲ್ಲಿ...

ಶ್ರೀ ಜೆ. ಮಹಮ್ಮದ್ ಇಮಾಂ.—ಸ್ವಾಮಿ, ನಾನೊಂದು ಕ್ರಿಯಾಲೋಪವನ್ನು ಸೂಚಿಸಬೇಕಾಗಿದೆ. ಇಂಥ ಯಾವುದೊಂದು ವಿಚಾರವನ್ನೇ ಆಗಲಿ ಈ ಸಭೆಯಮುಂದೆ ತರಬೇಕಾಗಿದ್ದರೆ ಅದಕ್ಕೆಲ್ಲಾ ಒಂದು ಕ್ರಮವನ್ನು ಅನುಸರಿಸಿ ತರಬೇಕಾಗಿದೆ. ಅಮ್ಮಾ, ತಾವೇನೂ ಮನಸ್ಸಿಗೆ ತಿಳಿದುಕೊಳ್ಳಬೇಡಿ. ತಾವು ಈ ಸಭೆಯ ಮುಂದೆ ತರಬೇಕಾದ ವಿಚಾರವೇನಿದೆಯೋ ಆ ಬಗ್ಗೆ ಒಂದು ಪೋರ್ಷ್ ಬರೆದು ಅದನ್ನು ತಾವು ಅಧ್ಯಕ್ಷರ ಕಡೆಗೆ ಕಳುಹಿಸಿಕೊಡಿ. ಆಗ ತಾವು ಹೇಳಬೇಕಾದ್ದನ್ನೆಲ್ಲಾ ಹೇಳಬಹುದು.

ಅಧ್ಯಕ್ಷರು.—ಅವರು ಈಗ ತಾನೆ ಒಂದು ನಿಲುವಳಿ ಸೂಚನೆಯನ್ನು ಬರೆದು ಕಳುಹಿಸಿಕೊಟ್ಟಿದ್ದಾರೆ. ಈ ವಿಚಾರವನ್ನು ನಾಳೆ ಪರಿಶೀಲನೆಗೆ ತೆಗೆದುಕೊಳ್ಳೋಣ.